

**SOLICITOR**

AO 120 (Rev. 3/04)

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>APR 23 2009</b> <b>U.S. PATENT &amp; TRADEMARK OFFICE</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court DISTRICT OF NEW JERSEY on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 09-1489 (FLW)	DATE FILED 3/31/2009	U.S. DISTRICT COURT DISTRICT OF NEW JERSEY
PLAINTIFF HUTCHINSON INDUSTRIES, INC. and HUTCHINSON S.A.		DEFENDANT ACCURIDE CORPORATION
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,474,383	11/5/2002	HUTCHINSON, S.A.
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK <b>WILLIAM T. WALSH</b>	(BY) DEPUTY CLERK <i>Guillermo Hernandez</i>	DATE 4-02-2009
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

Patent and Trademark Office through the grant of the '383 patent. Hutchinson Industries has made, used, offered for sale and sold automotive wheels according to the invention of the '383 patent, and it continues to do so. Hutchinson Industries has also made and continues to make extensive expenditures of time and money for advertising, marketing and additional technical developments relating to this invention.

10. Upon information and belief, Accuride has made (or had others make), offered for sale, sold, and used within the United States automotive wheels that infringe one or more claims of the '383 patent, and is continuing to do so.

**COUNT 1 - DIRECT INFRINGEMENT OF THE '383 PATENT**

11. The allegations of paragraphs 1 through 10 are incorporated herein by reference.

12. Upon information and belief, Accuride has directly infringed and is directly infringing the '383 patent by making, offering to sell, selling and using in the United States automotive wheels that meet the limitations, literally and/or by equivalents, of one of more claims of the '383 patent.

13. As a consequence of Accuride's infringement of the '383 patent, Hutchinson has been and continues to be damaged.

14. Unless enjoined, Accuride will continue its infringing acts, thereby causing Hutchinson irreparable injury for which there is no adequate remedy by law.

**COUNT 2 - WILLFUL INFRINGEMENT**

15. The allegations of paragraphs 1 through 14 are incorporated herein by reference.

16. Upon information and belief, at all times during which Accuride has directly infringed the '383 patent, it has been aware of the '383 patent and that its activities constitute infringement of the '383 patent.

17. Upon information and belief, Accuride's infringement has been and continues to be deliberate and willful.

18. As a consequence of Accuride's willful infringement, Hutchinson has been and continues to be damaged.

19. Unless enjoined, Accuride will continue its willfully infringing acts, thereby causing Hutchinson irreparable injury for which there is no adequate remedy by law.

20. This is an exceptional case pursuant to 35 U.S.C. § 285.

**JURY DEMAND**

21. Plaintiffs demand a trial by jury on all issues triable by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs Hutchinson Industries and Hutchinson S.A. pray for judgment as follows:

- A. That Defendant Accuride has directly infringed the '383 patent;
- B. That Defendant Accuride knowingly and willfully engaged in the aforementioned acts of infringement and thus willfully infringed the claims of the '383 patent;
- C. That Defendant Accuride, and its officers, directors, employees, agents and those persons acting in concert therewith, be preliminarily and permanently enjoined from engaging in the aforementioned acts and from otherwise infringing the claims of the '383 patent;
- D. That Plaintiffs Hutchinson Industries and Hutchinson S.A. be awarded their actual damages adequate to compensate for the infringement, including without limitation their lost profits, diminished profits and/or a reasonable royalty, and that these damages be trebled pursuant to 35 U.S.C. § 284;

- E. That this case be declared exceptional within the meaning of 35 U.S.C. § 285, and that Plaintiff be awarded its reasonable attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. §285, interests, and costs; and
- F. For such other and further relief as is just and proper.

Respectfully submitted this 31<sup>st</sup> day of March, 2009.

S/ Fredric R. Cohen  
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ATTORNEYS FOR PLAINTIFFS

# **EXHIBIT "A"**

RECEIVED

JS 44 (Rev. 12/07, NJ 508)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, nor are they provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

AT 8:30

## I. (a) PLAINTIFFS

Hutchinson Industries, Inc. and Hutchinson S.A.

(b) County of Residence of First Listed Plaintiff Mercer County, NJ

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Fredric R. Cohen  
Sherman, Silverstein, Kohl, Rose & Podolsky  
4300 Haddonfield Road, Suite 311  
Pennsauken, NJ 08109; (856) 661-2061; fcohen@sskrlaw.com

## DEFENDANTS

Accuride Corporation

County of Residence of First Listed Defendant Vanderburgh County, IN

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Stephen A. Martin, Vice President and General Counsel

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACTS	PERSONAL INJURY	PERSONAL INJURY	PROPERTY	LABOR	APPEALS	OTHER
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Injury		<input type="checkbox"/> 690 Other		<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury				<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract					<input type="checkbox"/> 830 Securities/Commodities/Exchange	
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 875 Consumer Challenge 12 USC 3410	
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 890 Other Statutory Actions	
					<input type="checkbox"/> 871 Agricultural Acts	
					<input type="checkbox"/> 892 Economic Stabilization Act	
					<input type="checkbox"/> 893 Environmental Matters	
					<input type="checkbox"/> 894 Energy Allocation Act	
					<input type="checkbox"/> 895 Freedom of Information Act	
					<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
					<input type="checkbox"/> 930 Constitutionality of State Statutes	

## V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. Section 1 et seq.

Brief description of cause:  
Patent infringement

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

March 31, 2009

DATE

S/Fredric R. Cohen

SIGNATURE OF ATTORNEY OF RECORD

JS 44 Reverse (Rev. 12/07, NJ 1008)

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Provide a brief explanation of why the cases are related.

Date and Attorney Signature. Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

RECEIVED

MAR 31 2009

AT 8:30  
WILLIAM T. WALSH  
CLERK

HUTCHINSON INDUSTRIES, INC. )  
AND HUTCHINSON S.A. )

Plaintiffs, )

v. )

ACCURIDE CORPORATION, )

Defendant. )

CASE NO. \_\_\_\_\_

**CORPORATE DISCLOSURE STATEMENT OF PLAINTIFF  
HUTCHINSON INDUSTRIES, INC.**

Plaintiff Hutchinson Industries, Inc. ("Hutchinson") certifies that it is a non-governmental corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Trenton, New Jersey. Hutchinson submits the following statement of its corporate interests and affiliations pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, for the use of the judges of this Court:

1. Hutchinson Industries, Inc. is a wholly owned subsidiary of its parent company, Hutchinson Corporation, a Delaware corporation with its principal place of business in Grand Rapids, Michigan. Hutchinson Corporation is a wholly owned subsidiary of Total S.A., a French corporation with its principal place of business in Courbevoie, France.



Respectfully submitted this 31<sup>st</sup> day of March, 2009.

S/Fredric R. Cohen

Fredric R. Cohen

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Attorneys for Plaintiffs

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MAR 31 2009

AT 8:30  
WILLIAM T. WALSH  
CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

HUTCHINSON INDUSTRIES, INC.  
AND HUTCHINSON S.A.

Plaintiffs,

v.

ACCURIDE CORPORATION,

Defendant.

CASE NO. \_\_\_\_\_

**CORPORATE DISCLOSURE STATEMENT OF PLAINTIFF  
HUTCHINSON S.A.**

Plaintiff Hutchinson S.A. certifies that it is a non-governmental French corporation, with its principal place of business in Paris, France. Hutchinson S.A. submits the following statement of its corporate interests and affiliations pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, for the use of the judges of this Court:

1. Hutchinson S.A. is a wholly owned subsidiary of its parent company, Total Chimie S.A., a French corporation with its principal place of business in Courbevoie, France, Total Chimie S.A. being a wholly owned subsidiary of its parent company, Total S.A.

Respectfully submitted this 30th day of March, 2009.

S/ Fredric R. Cohen

Fredric R. Cohen

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
TRENTON DIVISION

RECEIVED

MAR 31 2009

AT 8:30  
WILLIAM T. WALSH  
CLERK

HUTCHINSON INDUSTRIES, INC. AND  
HUTCHINSON S.A.

Plaintiffs,

v.

ACCURIDE CORPORATION

Defendant.

Civil Action No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiffs Hutchinson Industries, Inc. ("Hutchinson Industries") and Hutchinson S.A. (together "Hutchinson") for their Complaint against Defendant Accuride Corporation ("Accuride"), allege as follows:

**THE PARTIES**

1. Hutchinson Industries is a Delaware corporation having its principal place of business at 460 Southard Street, Trenton, NJ 08638. Hutchinson Industries is the premier designer and manufacturer of mobility components for wheeled vehicles, with a full line of products including runflats for various levels of security, beadlocks, 2-pc aluminum Tactical™ and commercial wheels, and turn-key assembly services.
2. Hutchinson S.A. is a French Corporation having its principal place of business at 2, Rue Balzac 75008 Paris, France.
3. On information and belief, Accuride Corporation ("Accuride") is a Delaware

corporation having its principal place of business at 7140 Office Circle, P.O. Box 15600, Evansville, IN 47716-0600. Accuride is in the business of manufacturing and selling automotive wheels and rim products, in various states, including New Jersey.

#### **JURISDICTION AND VENUE**

4. This is an action against Accuride for patent infringement arising under the U.S. Patent Laws, Title 35 U.S.C. § 1 *et seq.* This Court has jurisdiction over this action under 28 U.S.C. § 1338(a). Defendant Accuride is subject to personal jurisdiction in this district because it conducts business in New Jersey. *See* N.J. CT. R. 4:4-4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

#### **THE PATENT-IN-SUIT**

5. On November 5, 2002, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,474,383 ("the '383 patent"), entitled "Automotive Wheel With Improved Inflation System." A copy of the '383 patent is attached hereto as Exhibit A.

6. Plaintiff Hutchinson, S.A., through assignment, is the owner of the entire right, title and interest in and to the '383 patent.

7. Plaintiff Hutchinson Industries has been granted a license to make, use, offer for sale and sell products covered by the '383 patent.

8. The '383 patent generally describes an improved automotive wheel for use in connection with a central inflation system wherein the air passages for conveying air to and from the tubeless tire thereon are formed internally of the wheel rim itself.

9. The automotive wheel disclosed in the '383 patent was pioneered by Hutchinson through extensive investments of time and money in research and development. The inventiveness represented by these scientific advances was recognized by the United States